

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X
ANTHONY PERALTA,

Plaintiff,

-against-

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,

Defendants.
-----X

Index No.:
Date Purchased:
SUMMONS

Plaintiffs designate Suffolk
County as the place of trial.

The basis of venue is:
Plaintiff's residence

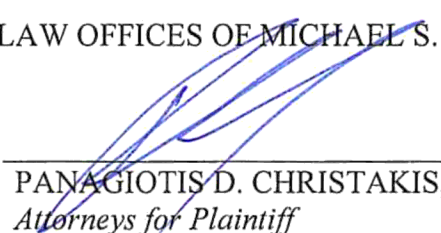
Plaintiffs reside at:
175 Washington Avenue
Brentwood, New York 11717

To the above-named Defendants:

You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the Plaintiff's attorneys within twenty days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or, within 30 days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
August 24, 2021

LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC



PANAGIOTIS D. CHRISTAKIS, ESQ.

Attorneys for Plaintiff

ANTHONY PERALTA

Financial Square at 32 Old Slip-8th Floor

New York, New York 10005

212-962-1020

Our File No. 30888

TO: See attached rider

Rider

LOWE'S HOME CENTERS, LLC
c/o Corporation Service Company
80 State Street
Albany, New York 12207-2543

LOWE'S STORE #3159
100 Long Island Expressway
Commack, New York 11725

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

Index No.:
Date Purchased:

-----X
ANTHONY PERALTA,

VERIFIED COMPLAINT

Plaintiff,

-against-

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,

Defendants.
-----X

Plaintiff JOHNNY BENIQUEZ, by their attorneys LAW OFFICES OF MICHAEL LAMONSOFF, PLLC, complaining of the Defendants, respectfully allege, upon information and belief:

1. That at all times hereinafter mentioned, Plaintiff was, and still is a resident of the County of Suffolk, State of New York.

2. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S HOME CENTERS, LLC, was and still is a domestic limited liability company duly organized and existing by virtue of the laws of the State of New York, doing business in the State of New York.

3. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S HOME CENTERS, LLC, was and still is a foreign limited liability company doing business in the State of New York.

4. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S HOME CENTERS, LLC, was and still is an unincorporated association doing business in the State of New York.

5. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S HOME CENTERS, LLC, was and still is a sole proprietorship doing business in the State of New York.

6. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S STORE #3159, was and still is a domestic corporation duly organized and existing by virtue if the laws of the State of New York, doing business in the State of New York.

7. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S STORE #3159, was and still is a foreign corporation doing business in the State of New York.

8. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S STORE #3159, was and still is an unincorporated association doing business in the State of New York.

9. Upon information and belief, and at all times hereinafter mentioned, the defendant LOWE'S STORE #3159, was and still is a sole proprietorship doing business in the State of New York.

10. Upon information and belief, that at all times hereinafter mentioned, Defendant LOWE'S HOME CENTERS, LLC, owned the premises located at 100 Long Island Expressway, Commack, New York 11725.

11. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S HOME CENTERS, LLC, operated the premises located at 100 Long Island Expressway, Commack, New York 11725.

12. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S HOME CENTERS, LLC, maintained the premises located at 100 Long Island Expressway, Commack, New York 11725.

13. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S HOME CENTERS, LLC, managed the premises located at 100 Long Island Expressway, Commack, New York 11725.

14. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S HOME CENTERS, LLC, controlled the premises located at 100 Long Island Expressway, Commack, New York 11725.

15. 10. Upon information and belief, that at all times hereinafter mentioned, Defendant LOWE'S STORE #3159, owned the premises located at 100 Long Island Expressway, Commack, New York 11725.

16. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S STORE #3159, operated the premises located at 100 Long Island Expressway, Commack, New York 11725.

17. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S STORE #3159, maintained the premises located at 100 Long Island Expressway, Commack, New York 11725.

18. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S STORE #3159, managed the premises located at 100 Long Island Expressway, Commack, New York 11725.

19. Upon information and belief, that at all times hereinafter mentioned defendant LOWE'S STORE #3159, controlled the premises located at 100 Long Island Expressway, Commack, New York 11725.

20. That on February 22, 2021 while plaintiff was lawfully within the premises located at 100 Long Island Expressway, Commack, New York 11725, he was caused to slip and fall and sustain serious personal injuries due to the negligence of the defendants.

21. That on and prior to February 22, 2021, the defendant, LOWE'S HOME CENTERS, LLC, its agents, servants and/or employees negligently and carelessly maintained said premises in such a haphazard, negligent manner as to cause the same to become and remain in an unsafe improper and dangerous condition, which consisted of a trap and a nuisance as well as a negligent and improper condition of which the defendant had due notice, or by the use of reasonable care and inspection therein, might and should have had due notice.

22. That on and prior to February 22, 2021, the defendant, LOWE'S STORE #3159, its agents, servants and/or employees negligently and carelessly maintained said premises in such a haphazard, negligent manner as to cause the same to become and remain in an unsafe improper and dangerous condition, which consisted of a trap and a nuisance as well as a negligent and improper condition of which the defendant had due notice, or by the use of reasonable care and inspection therein, might and should have had due notice.

23. Upon information and belief, and at all times hereinafter mentioned, it was the duty of defendant LOWE'S HOME CENTERS, LLC, its agents, servants, and/or employees to maintain the aforesaid premises in a safe, proper, lawful and careful manner, so that the same would not be dangerous to persons lawfully on said premises and to keep same from defaults, traps and

conditions, constituting a danger and menace to persons lawfully and properly therein.

24. Upon information and belief, and at all times hereinafter mentioned, it was the duty of defendant LOWE'S STORE #3159, its agents, servants, and/or employees to maintain the aforesaid premises in a safe, proper, lawful and careful manner, so that the same would not be dangerous to persons lawfully on said premises and to keep same from defaults, traps and conditions, constituting a danger and menace to persons lawfully and properly therein.

25. That said accident and resulting injuries to the plaintiff were caused solely and wholly by reason of the carelessness, recklessness and negligence of the defendants without any negligence of the plaintiff contributing thereto.

26. That by reason of the premises and wrongful acts and omissions on the part of the defendants as stated above, the plaintiff has suffered and will continue to suffer pain and agony in mind and body and was unable to attend to his duties, all to her damage in the sum which exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

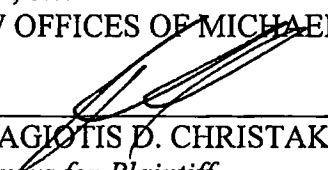
27. That this action falls within one or more of the exceptions set forth in CPLR § 1602(2) (iv), (7), & (11).

WHEREFORE, Plaintiff(s) demand(s) judgment against the Defendants herein on all causes of action, in a sum exceeding the jurisdictional limits of all lower courts which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: New York, New York
August 24, 2021

Yours, etc.

LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC



PANAGIOTIS D. CHRISTAKIS, ESQ.

Attorneys for Plaintiff

ANTHONY PERALTA

Financial Square at 32 Old Slip-8th Floor

New York, New York 10005

212-962-1020


Our File No. 30888

ATTORNEY'S VERIFICATION

PANAGIOTIS D. CHRISTAKIS, an attorney duly admitted to practice before the Courts of the State of New York, affirms the following to be true under the penalties of perjury: I am an attorney at the LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC, attorneys of record for Plaintiff, ANTHONY PERALTA. I have read the annexed **VERIFIED COMPLAINT** and know the contents thereof, and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief, as to those matters therein not stated upon knowledge, is based upon facts, records, and other pertinent information contained in my files.

This verification is made by me because Plaintiff does not reside and are not presently in the county wherein I maintain my offices.

DATED: New York, New York
August 24, 2021



PANAGIOTIS D. CHRISTAKIS, ESQ.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X
ANTHONY PERALTA,

Plaintiff,

-against-

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,

Defendants.
-----X

**NOTICE OF COMMENCEMENT
OF ACTION FOR PERSONAL
INJURIES PURSUANT TO CPLR
§306-C**

Index No.: 616479/2021

PLEASE TAKE NOTICE that pursuant to CPLR §306-C notice is hereby of
commencement of an action for personal injuries on behalf of the following:

NAME: Anthony Peralta
ADDRESS: 175 Washington Avenue, Brentwood, New York 11717
DATE OF INCIDENT: February 22, 2021
SS#: xxx-xx-6112

Dated: New York, New York
August 24, 2021

I have read the foregoing and I certify that upon information and belief the source of which is the file maintained by my office, that the foregoing Notice of Commencement of Action for Personal Injuries pursuant to CPLR §306-C is not frivolous as defined by the Rules of the Chief Administrator Section 130-1.1(c)

Yours, etc.
LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC

PANAGIOTIS D. CHRISTAKIS, ESQ.
Attorneys for Plaintiff(s)
ANTHONY PERALTA
Financial Square at 32 Old Slip - 8th FL
New York, New York 10005

(212) 962-1020
Our File No. 30888

TO:

THE CLERK OF THE COURT

New York State Department of health
Division of Legal Affairs
Corning Tower Building
Room 2438
Albany, New York 12237

Human Resources Administration
Office of Legal Affairs/Subpoena Unit
4 World Trade Center
150 Greenwich Street, 38th floor
New York, New York 10007

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

George Blades being duly sworn, deposes and says:

I am over 18 years of age, I am not a party to the action, and I reside in Kings County in the State of New York.

I served a true copy of the annexed

**NOTICE OF COMMENCEMENT OF ACTION FOR PERSONAL INJURIES
PURSUANT TO CPLR §306-C**

on August 25, 2021

by mailing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee as indicated below:


THE CLERK OF THE COURT

New York State Department of health
Division of Legal Affairs
Corning Tower Building
Room 2438
Albany, New York 12237

Human Resources Administration
Office of Legal Affairs/Subpoena Unit
4 World Trade Center
150 Greenwich Street, 38th floor
New York, New York 10007


George Blades

Sworn to before me August 25, 2021


Notary Public

ASHLEY G. SHERRY
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01SH6410801
Qualified in Richmond County
Commission Expires November 2, 2024

SUPREME OF THE STATE OF NEW YORK

COUNTY OF SUFFOLK

GPS and Timestamp: 40.806313353719254, -73.29161101480658 1630941235000

Plaintiff / Petitioner:

ANTHONY PERALTA

Defendant / Respondent:

LOWE'S HOME CENTER LLC ET AL

AFFIDAVIT OF SERVICE

Index No:

616479/2021

The undersigned being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at County of Nassau. That on Mon, Sep 06 2021 AT 11:13 AM AT 100 LONG ISLAND EXPRESSWAY, COMMACK, NY 11725 deponent served the within summons and verified complaint and notice of commencement by electronic filing on LOWE'S STORE#3159

- ☐ Individual: by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☒ Corporation/Entity: LOWE'S STORE#3159 a defendant, therein named, by delivering a true copy of each to Doug Irvine personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be Manager thereof.
- ☐ Suitable Person: by delivering thereat, a true copy of each to _____ a person of suitable age and discretion.
- ☐ Affixing to Door: by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at _____
- ☐ Mailing: Deponent also enclosed a copy of same, in a postpaid sealed wrapper properly addressed to said defendant at defendant's last known residence/workplace, _____, and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office, department, with New York State. Mailed on _____.
- ☐ Military Service: I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no military uniform. The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Description:

Age: 50 Ethnicity: Caucasian Gender: Male Weight: 180
Height: 6'2" Hair: Brown Eyes: Brown Relationship: Manager
Other _____

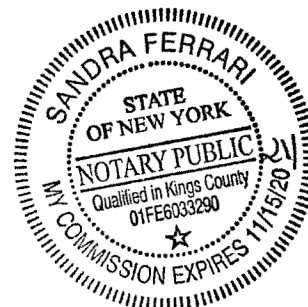
Said documents were conformed with index number and date of filing endorsed thereon.

Sworn to before me on

9/7/2021

Mitchell Raider
1450036

Sandra Ferrari
Notary Public



AFFIDAVIT OF SERVICE

INDEX #: 616479/2021

DATE FILED: 8/24/2021

ATTORNEY FILE#: 30888

ATTORNEY: LAW OFFICES OF MICHAEL S. LAMONSOFF PLLC

FINANCIAL SQUARE AT 32 OLD SLIP-8TH FLOOR NEW YORK NY 10005 (212)962-1020

SUPREME COURT OF THE STATE OF NEW YORK

SUFFOLK COUNTY

ANTHONY PERALTA,

Plaintiff(s)

- against -

LOWE'S HOME CENTERS, LLC AND LOWE'S STORE

#3159,

Defendant(s)

STATE OF NEW YORK:

COUNTY OF ALBANY: ss:

STEF MARIE, BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION AND IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on 09/02/2021, 12:11PM at 80 STATE STREET, 10TH FLOOR, ALBANY, NEW YORK 12207, deponent served a **SUMMONS, VERIFIED COMPLAINT AND NOTICE OF ELECTRONIC FILING** upon **LOWE'S HOME CENTERS, LLC BY SERVICE UPON CORPORATION SERVICE COMPANY AS REGISTERED AGENT**, a defendant in the above captioned matter.

By delivering to and leaving a true copy of the above described papers thereof personally with **ALANA TITLEY**, Registered Agent, who indicated that she was authorized to accept service of process on behalf of **LOWE'S HOME CENTERS, LLC**.

DEPONENT DESCRIBES THE INDIVIDUAL SERVED AS FOLLOWS:

Sex **F** Approximate age **27** Approximate height **5'04"** Approximate weight **250** Color of skin **BLACK** Color of hair **BLACK**

Sworn to before me on 09/03/2021
JILL DOCHERTY NO. 01DO6373160
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ALBANY COUNTY
COMMISSION EXPIRES ON APRIL 2, 2022



x S. Marie
STEF MARIE

COMPLIANT PROCESS SERVICE INC

2648 MONTAUK AVENUE MERRICK, NY 11566 (516)961-5246

STATE OF NEW YORK
SUPREME COURT : COUNTY OF SUFFOLK

ANTHONY PERALTA,

Plaintiff,

VERIFIED ANSWER

v.

Index No.: 616479/2021

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,

Defendants.

Defendant, Lowe's Home Centers, LLC (incorrectly sued as "Lowe's Home Centers, LLC and Lowe's Store #3159") ("Lowe's"), by its attorneys, Goldberg Segalla LLP, for its Verified Answer to the plaintiff's Verified Complaint, responds as follows:

1. Lowe's denies having knowledge or information sufficient to form a belief as to the allegations contained in paragraph 1 of the Verified Complaint.
2. Lowe's denies the allegations contained in paragraph 2 of the Verified Complaint.
3. In response to paragraph 3 of the Verified Complaint, Lowe's states that Lowe's Home Centers, LLC was and is a foreign limited liability company organized and existing under and by virtue of the laws of the State of North Carolina, with its principal place of business located at 1000 Lowe's Boulevard, Mooresville, North Carolina, and denies any remaining allegations contained in paragraph 3 of the Verified Complaint.
4. Lowe's denies the allegations contained in paragraph 4 of the Verified Complaint.
5. Lowe's denies the allegations contained in paragraph 5 of the Verified Complaint.
6. Lowe's denies the allegations contained in paragraph 6 of the Verified Complaint.
7. Lowe's denies the allegations contained in paragraph 7 of the Verified Complaint.
8. Lowe's denies the allegations contained in paragraph 8 of the Verified Complaint.
9. Lowe's denies the allegations contained in paragraph 9 of the Verified Complaint.

10. Lowe's admits the allegations contained in paragraph 10 of the Verified Complaint.

11. In response to paragraph 11 of the Verified Complaint, Lowe's admits that it operated a Lowe's Home Improvement retail store on the premises located at 100 Long Island Expressway, Commack, New York 11725, and denies any remaining allegations contained in paragraph 11 of the Verified Complaint.

12. Lowe's denies the allegations contained in paragraph 12 of the Verified Complaint.

13. Lowe's denies the allegations contained in paragraph 13 of the Verified Complaint.

14. Lowe's denies the allegations contained in paragraph 14 of the Verified Complaint.

15. Lowe's denies the allegations contained in paragraph 15 of the Verified Complaint.

16. Lowe's denies the allegations contained in paragraph 16 of the Verified Complaint.

17. Lowe's denies the allegations contained in paragraph 17 of the Verified Complaint.

18. Lowe's denies the allegations contained in paragraph 18 of the Verified Complaint.

19. Lowe's denies the allegations contained in paragraph 19 of the Verified Complaint.

20. Lowe's denies the allegations contained in paragraph 20 of the Verified Complaint.

21. Lowe's denies the allegations contained in paragraph 21 of the Verified Complaint.

22. Lowe's denies the allegations contained in paragraph 22 of the Verified Complaint.

23. Lowe's denies the allegations contained in paragraph 23 of the Verified Complaint.

24. Lowe's denies the allegations contained in paragraph 24 of the Verified Complaint.

25. Lowe's denies the allegations contained in paragraph 25 of the Verified Complaint.

26. Lowe's denies the allegations contained in paragraph 26 of the Verified Complaint.

27. Paragraph 27 of the Verified Complaint calls for a legal conclusion to which no response is required. To the extent that a response is required, Lowe's denies having knowledge or information sufficient to form a belief as to the allegations contained in paragraph 27 of the Verified Complaint.

28. Lowe's denies each and every other allegation of the Verified Complaint not previously specifically admitted, denied, or otherwise controverted.

**AS AND FOR A FIRST SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE,
LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

29. The injuries and/or damages alleged in the Verified Complaint were caused in whole or in part by the culpable conduct on the part of the plaintiff, and without negligence or fault on the part of Lowe's.

**AS AND FOR A SECOND SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

30. If Lowe's is found liable to the plaintiff, its responsibility for the accident is less than fifty-one percent (51%) of the total liability assigned to all persons liable and, therefore, any recovery by the plaintiff for non-economic loss against Lowe's should be limited to its percentage of liability.

**AS AND FOR A THIRD SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE,
LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

31. The Verified Complaint fails to state a cause of action against Lowe's.

**AS AND FOR A FOURTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

32. The plaintiff's injuries, if any, were caused in whole or in part by a person or persons who are not within Lowe's control.

**AS AND FOR A FIFTH SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE,
LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

33. That pursuant to CPLR §4545 and other applicable sections of the CPLR, Lowe's is entitled to a set off of collateral source payments.

**AS AND FOR A SIXTH SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE,
LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

34. Plaintiff failed to mitigate his alleged damages.

**AS AND FOR A SEVENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

35. The incident and alleged resulting injuries were not proximately caused by any action or inaction of Lowe's.

**AS AND FOR AN EIGHTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

36. Plaintiff assumed the risk of the incident and any resulting injuries.

**AS AND FOR A NINTH SEPARATE AND COMPLETE AFFIRMATIVE DEFENSE,
LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

37. If the plaintiff seeks to recover a verdict or judgment against Lowe's, then any verdict or judgment must exclude or be reduced by those amounts which have been, or will with reasonable certainty replace or indemnify the plaintiff, in whole or in part, for any past or future medical costs, health care, life care, or other economic loss or the benefit that is offered or provided under or in connection with the Patient Protection and Affordable Care Act.

**AS AND FOR A TENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

38. Lowe's did not receive requisite notice of any alleged dangerous, defective, or hazardous conditions set forth in plaintiff's Verified Complaint.

**AS AND FOR AN ELEVENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

39. Plaintiff's conduct was the sole proximate cause of the incident.

**AS AND FOR A TWELFTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

40. Lowe's is entitled to the protection, provisions, and limitations of Section 15-108 of the General Obligations Law of the State of New York.

**AS AND FOR A THIRTEENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

41. Any risks and dangers at the time, place, and location set forth in the Verified Complaint were open, obvious, and apparent.

**AS AND FOR A FOURTEENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

42. Any alleged injuries and/or expenses resulted from the pre-existing and/or unrelated medical conditions, injuries, or illnesses of the plaintiff.

**AS AND FOR A FIFTEENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

43. There may be documentary evidence exists which establishes a complete defense.

**AS AND FOR A SIXTEENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

44. There was a storm in progress at the time of the alleged incident.

**AS AND FOR A SEVENTEENTH SEPARATE AND COMPLETE AFFIRMATIVE
DEFENSE, LOWE'S ALLEGES, UPON INFORMATION AND BELIEF:**

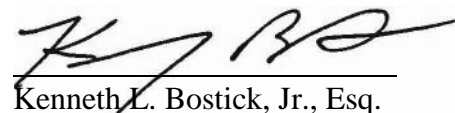
45. Lowe's reserves the right to amend this Answer and to add any applicable affirmative defenses after it has had the opportunity to discover all facts relevant to this action.

WHEREFORE, Lowe's demands judgment as follows:

- a. Dismissing the Verified Complaint, or
- b. Reducing plaintiffs' recovery in the proportion to which the plaintiff's culpable conduct caused the alleged damages;
- c. Limiting plaintiffs' recovery for non-economic loss against Lowe's to the percentage of responsibility attributed to Lowe's, if that percentage is less than fifty-one percent (51%); and
- d. Such other and further relief as to this Court may seem just, proper, and equitable together with the costs and disbursements of this action.

Dated: Buffalo, New York
September 17, 2021

GOLDBERG SEGALLA LLP



Kenneth L. Bostick, Jr., Esq.
Attorneys for Defendants
665 Main Street
Buffalo, New York 14203
(716) 566-5400

TO: Panagiotis D. Cristakis, Esq.
LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC
Attorneys for Plaintiff
Financial Square at 32 Old Slip – 8th Floor
New York, New York 10005
(212) 962-1020

ATTORNEY VERIFICATION

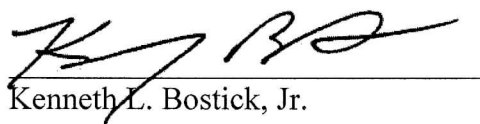
STATE OF NEW YORK)
COUNTY OF ERIE) ss:

Kenneth L. Bostick, Esq., being sworn, deposes and says:

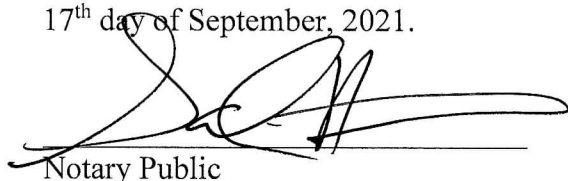
1. I am a partner with the law firm of Goldberg Segalla LLP, attorneys for defendant Lowe’s Home Centers, LLC (incorrectly sued as “Lowe’s Home Centers, LLC and Lowe’s Store #3159”) in this matter.

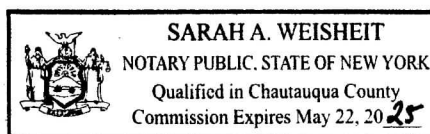
2. I have read the foregoing Answer and either know the contents to be true or they are alleged upon information and belief, and as to those matters, I believe them to be true based upon the materials supplied by and discussions with defendant.

3. The reason this verification is made by deponent and not by defendant is that defendant’s corporate headquarters and residences are not located in the County of Erie where deponent’s law office is located, or in the County of Suffolk, where this action is venued.


Kenneth L. Bostick, Jr.

Sworn to before me this
17th day of September, 2021.


Notary Public



THE STATE OF NEW YORK
SUPREME COURT : COUNTY OF SUFFOLK

ANTHONY PERALTA,

**NOTICE OF EXAMINATION
BEFORE TRIAL**

Plaintiff,

v.

Index No.: 616479/2021

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,


Defendants.

PLEASE TAKE NOTICE, that pursuant to CPLR Article 31, Defendant, Lowe's Home Centers, LLC (incorrectly sued as "Lowe's Home Centers, LLC and Lowe's Store #3159"), will cause to be taken before a notary public, upon oral examination, the testimony of Plaintiff, Anthony Peralta.

PLEASE TAKE FURTHER NOTICE, that all parties are required, pursuant to CPLR 3111, to produce all relevant books, papers and other things in the possession, custody or control of such party to be marked as exhibits, and used on the examination.

Dated: Buffalo, New York
September 17, 2021

GOLDBERG SEGALLA LLP



Kenneth L. Bostick, Jr., Esq.

Attorneys for Defendants

665 Main Street

Buffalo, New York 14203-1425

(716) 566-5400

kbostick@goldbergsegalla.com

TO: Panagiotis D. Christakis, Esq.
LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC
Attorneys for Plaintiff
32 Old Slip – 8th Floor
New York, New York 10005
(212) 962-1020

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X
ANTHONY PERALTA,

Plaintiff,

-against-

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,

Defendants.

**REQUEST FOR
PRELIMINARY
CONFERENCE**

Index No.: 616479/2021

-----X
The undersigned requests a Preliminary Conference.

The nature of the action is PERSONAL INJURY.

The names, addresses and telephone numbers of all attorneys appearing in the action are as follows:

LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC

Attorneys for Plaintiff(s)

ANTHONY PERALTA

Financial Square at 32 Old Slip - 8th FL

New York, New York 10005

(212) 962-1020

File No.:30888

GOLDBERG SEGALLA LLP

Attorneys for Defendant(s)

LOWE'S HOME CENTERS, LLC and

LOWE'S STORE #3159

665 Main Street

Buffalo, New York 14203

(716) 566-5400

Dated: New York, New York
September 28, 2021

Yours, etc.



PANAGIOTIS D. CHRISTAKIS

LAW OFFICES OF MICHAEL S. LAMONSOFF,
PLLC
Attorneys for Plaintiff(s)
ANTHONY PERALTA
Financial Square at 32 Old Slip - 8th FL
New York, New York 10005
(212) 962-1020
Our File No.: 30888

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X
ANTHONY PERALTA,

Plaintiff,

-against-

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,

Defendants.
-----X

**AFFIRMATION
OF GOOD FAITH**


Index No.: 616479/2021

PANAGIOTIS D. CHRISTAKIS, an attorney admitted to practice before the
Courts of this State affirms the truth of the following under the penalty of perjury and pursuant to
CPLR Rule 2106 that the following facts are true:

1. I am the attorney for the plaintiff(s) herein and as such I am fully familiar with the facts and circumstances of this action based upon a review of the case file and the investigation materials contained therein.
2. This affirmation is submitted in connection with the filing of a Request for Judicial Intervention requesting a Preliminary Conference.
3. This is a negligence action to recover damages for serious permanent injuries sustained by plaintiff ANTHONY PERALTA as a result of an accident which occurred on February 22, 2021.
4. A Summons and Complaint was served on the defendant(s) and issue was joined shortly thereafter.

WHEREFORE, plaintiff respectfully requests a preliminary conference be scheduled at the Court's earliest convenience.

Dated: New York, New York
September 28, 2021



PANAGIOTIS D. CHRISTAKIS

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

SANDRA FERRARI, being duly sworn, deposes and says:

I am over 18 years of age, I am not a party to the action, and I reside in Kings County in the State of New York.

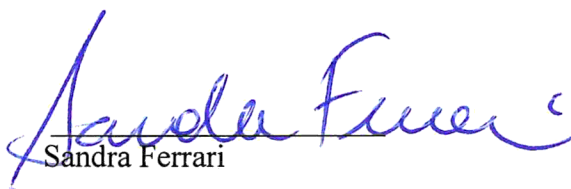
I served a true copy of the annexed

REQUEST FOR PRELIMINARY CONFERENCE


On September 28, 2021 by mailing and faxing the same in a sealed envelope, with postage prepaid thereon, in a post office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address of the addressee as indicated below:

TO:

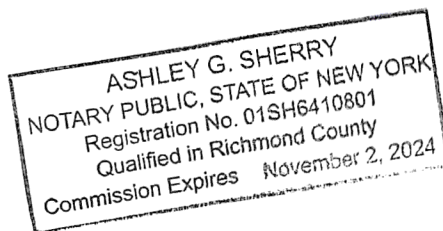
GOLDBERG SEGALLA LLP
Attorneys for Defendant(s)
LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159
665 Main Street
Buffalo, New York 14203
(716) 566-5400


Sandra Ferrari

Sworn to before me September 28, 2021



Notary Public



Index No. 616479/2021
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

ANTHONY PERALTA,

Plaintiff,

-against-

LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159,

Defendants.

REQUEST FOR PRELIMINARY CONFERENCE

LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC
Attorneys for Plaintiff MATTHEW ANDERSON
Financial Square at 32 Old Slip
New York, New York 10005
(212) 962-1020

TO: SEE AFFIDAVIT OF SERVICE

Pursuant to 22NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of the State of New York, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.



PANAGIOTIS D. CHRISTAKIS

AFFIDAVIT OF SERVICE

STATE OF NEW YORK, COUNTY OF NEW YORK ss.:

SANDRA FERRARI, being duly sworn, deposes and says:

I am over 18 years of age, I am not a party to the action, and I reside in Kings County in the State of New York.

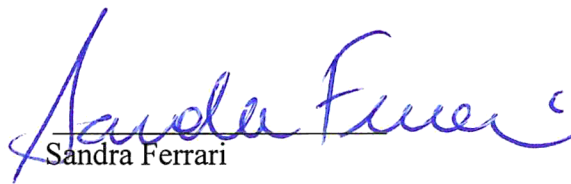
I served a true copy of the annexed

REQUEST FOR PRELIMINARY CONFERENCE

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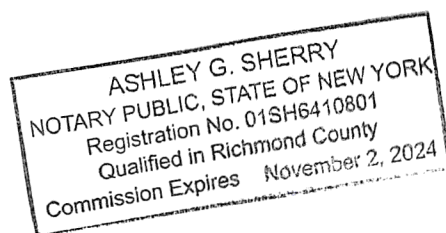
GOLDBERG SEGALLA LLP
Attorneys for Defendant(s)
LOWE'S HOME CENTERS, LLC and
LOWE'S STORE #3159
665 Main Street
Buffalo, New York 14203
(716) 566-5400


Sandra Ferrari

Sworn to before me September 28, 2021



Notary Public





RELATED CASES: List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the **RJI Addendum (UCS-840A)**.

Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES: For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the **RJI Addendum (UCS-840A)**.

Un-Rep	Parties	Attorneys and/or Unrepresented Litigants	Issue Joined	Insurance
	List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant; 3 rd party plaintiff, etc.)	For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	For each defendant, indicate if issue has been joined.	For each defendant, indicate insurance carrier, if applicable.
<input type="checkbox"/>	Name: Peralta, Anthony Role(s): Plaintiff/Petitioner	PANAGIOTIS CHRISTAKIS, Law Offices of Michael S. Lamansoff, 32 Old Slip, 8th Floor, New York, NY 10005, 2129621020, peterchristakis@gmail.com	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Lowe's Home Centers, LLC Role(s): Defendant/Respondent	KENNETH BOSTICK JR., Goldberg Segalla LLP, 665 Main St, Buffalo, NY 14203, kbostick@goldbergsegalla.com	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Lowe's Store #3159 Role(s): Defendant/Respondent	KENNETH BOSTICK JR., Goldberg Segalla LLP, 665 Main St, Buffalo, NY 14203, kbostick@goldbergsegalla.com	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 09/28/2021

PANAGIOTIS DEMETRIOS CHRISTAKIS

Signature

4895504

PANAGIOTIS DEMETRIOS CHRISTAKIS

Print Name

Attorney Registration Number

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